IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.9444 OF 2004

Smt. Suvarna Tukaram Shinde. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.

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Mr. A. M. Joshi for the Petitioner.
Mr. S. R. Nargolkar, AGP for Respondent Nos.1 and 2.
Mr. J. S. Kini for Respondent No.3.
Ms. Shilpa Mangle i/b. Mr. M. L. Patil for Respondent No.4.

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CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

April 21, 2006.

P.C.(Per Dr. D.Y. Chandrachud, J.) :

The husband of the Petitioner served as a peon and was a permanent employee in the Nutan Madhyamik Vidyalaya, Kavthale in the Taluka of Indapur in the District of Pune. He served in the school from 10th June 1996 until 19th November 2003 when he expired. The Petitioner thereupon made several applications for appointment on a compassionate basis in place of her deceased husband and the Education Officer, Zilla Parishad called upon the Management to furnish information about the availability of vacancies. In the month of August 2004, the Petitioner was informed by the management that she was

appointed as a peon at the Adarsha Madhyamik School at Mundhwa, Pune, conducted by the management. The grievance of the Petitioner is that her husband was serving in the School at Indapur which is an aided school whereas the school in which she was appointed is an unaided school under the same management. In addition, the Petitioner has stated that the distance from Indapur is 80 kms.; the Petitioner was only 18 years of age when she applied for compassionate appointment, and has a daughter aged one and a half years who has to be looked after. In these circumstances, the Petitioner has sought relief from the Court in these writ proceedings for directing the management to appoint her in the school at Indapur.

2. When this petition came up for hearing before a Division Bench of this Court on 12th August 2005, the management informed the Court that another peon was appointed in the school at Indapur where the Petitioner's husband was working earlier on the basis of a common seniority list maintained for the members of the staff of the seven schools run by the management. The employee who was transferred to the school at Indapur was accordingly impleaded as a party and he has appeared before this

Court as the Fourth Respondent.

3. We have heard Counsel appearing for the parties, including on behalf of the Fourth Respondent. The Fourth Respondent has stated in his affidavit in reply that he was initially appointed as a peon under the same management on 1st July 1993 and that his appointment was shown in the Adarsh Madhyamik Vidyalaya at Mundhwa, Pune. He, however, claimed that even though his appointment was shown by the management in the school at Mundhwa, he worked as a peon at Indapur from July 2003 till November 2003. Thereafter from 1st December 2003, he came to be transferred upon the death of the husband of the Petitioner to the school at Indapur.

4. It has been stated before the Court that the school at Mundhwa which had earlier been in receipt of only a partial grant, is now a fully aided school. In these circumstances, it has not been disputed either by the management or by the Fourth Respondent that the allotment of the Fourth Respondent to the School at Mundhwa where he had in fact, been appointed would not cause any prejudice to the Fourth Respondent. The management had in

fairness stated that it would submit to the orders of the Court. The management has not placed any objection before the Court towards ensuring that a posting is granted to the Petitioner in Nutan Madhyamik Vidyalaya, Indapur. In that event, the management would ensure that the Fourth Respondent is also allotted to the fully aided school at Mundhwa, Pune. The aforesaid arrangement would meet the ends of justice, since having regard to the circumstance that the Petitioner lost her husband at the age of 18 and has an infant child to nurse, it would be only appropriate and proper that she is alloted to a school in a place where she can earn her livelihood with dignity consistent with the requirement of maintaining her infant child. In pursuance of the order of appointment that has been issued to the Petitioner by the management appointing her on a compassionate basis, the Petitioner shall accordingly stand posted to the school at Indapur. The Fourth Respondent is to be posted at the School at Mundhwa. This will however, not affect either the seniority or the pay scale allowable to the Fourth Respondent in accordance with law. The petition is accordingly disposed of. There shall be no order as to costs.

CHIEF JUSTICE

Dr.D. Y. Chandrachud, J.